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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHELL STERLING SIMPSON,
GARTH FREDERICK SCHMELING, and KENNETH LEE OAKESON

Appeal 2009-005893
Application 09/905,580
Technology Center 2100

Decided: September 30, 2009

Before KENNETH W. HAIRSTON, KARL EASTHOM, and KEVIN F. TURNER, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the final rejection of claims 1-3, 5, 9-12, 14-17, 19, 23-26, 28, 33-36, and 38. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Appellants' disclosure relates to a method and system for mediating access to production device options in a distributed environment (Spec. ¶

[0001]). A user's access request for a production device is acquired and the user is provided with an interface for the production device modified such that only controls for which the user has permission to access are provided in the interface (Spec. ¶ [0045]).

Independent claim 1 is illustrative of the invention and reads as follows:

1. A method for mediating access to production options, comprising:
 - acquiring a user's access request for a production device;
 - accessing data that at least indirectly identifies those production options to which the user does not have permission to access, each production option corresponding to feature that when implemented affects a manner in which the production device produces a target document;
 - retrieving a user interface for the production device, the user interface having user accessible controls for selecting production options for the production device;
 - modifying the retrieved user interface according to the accessed data so that the interface provides user accessible controls for selecting only those options for which the user has permission to access; and
 - presenting the user with the modified user interface.

The Examiner relies on the following prior art references to show unpatentability:

Adolfsson	US 6,092,078	Jul. 18, 2000
Hart	US 6,154,843	Nov. 28, 2000
Wood	US 6,453,127 B2	Sep. 17, 2002
Zothner	US 6,751,657 B1	Jun. 15, 2004

Claims 1-3, 11, 12, 15-17, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood and Hart. Claims 5, 9, 10, 14, 19,

23, 24, 28, 33, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood, Hart, and Zothner. Claims 35, 36, and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wood, Hart, Zothner, and Adolfsson.

ISSUES

Appellants argue that the Examiner's rejection is in error because the combination of Wood and Hart fails to teach or suggest ““modifying the retrieved user interface according to the accessed data so that the interface provides user accessible controls for selecting only those options for which the user has permission to access”” as recited in independent claims 1 and 15 (App. Br. 8). Appellants also argue that Hart discloses generating a customized user interface, which is different from what is recited in the claims and that Hart teaches away from the claimed invention (App. Br. 8-10). Appellants also argue that Zothner and Adolfsson fail to cure the deficiencies of Wood and Hart (App. Br. 10-14). The Examiner finds that Hart’s disclosure of generating a user interface reads upon Appellants’ modifying step, because a new user interface is generated based on that step, and that there is no functional difference between the two (Ans. 14-16).

Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Thus, the issues arising from the respective positions of Appellants and the Examiner are:

Have Appellants shown reversible error in that Wood and Hart fail to teach or suggest “modifying the retrieved user interface according to the accessed data so that the interface provides user accessible controls for selecting only those options for which the user has permission to access” as recited in independent claims 1 and 15?

Have Appellants shown reversible error in that Zother and Adolfsson fail to cure deficiencies in the combination of Wood and Hart and thus fail to teach or suggest all of the elements of independent claims 14, 28, 33, and 38?

FINDINGS OF FACT

1. The instant Specification discloses a method and system for mediating access to production device options in a distributed environment (Spec. ¶ [0001]). A user’s access request for a production device is acquired and the user is provided with an interface for the production device modified such that only controls for which the user has permission to access are provided in the interface (Spec. ¶ [0045]; Fig. 8).

2. Wood discloses the establishment of a user interface to a printer at a remote location from a web server to allow the user to control the printer according to presented options (Wood, abstract; col. 2, l. 65 – col. 3, l. 8; col. 3, ll. 54-65).

3. Hart discloses a secure remote access computing system that provides a custom user interface to allow the user to execute tasks on a secure private network, where the remote user is allowed to execute only what they could locally (Hart, col. 2, ll. 16-27, 47-59).

4. Hart discloses that the local computing device generates a custom network page that includes custom programs unique to the task requested by the remote user in response to the command request made (Hart, col. 5, l. 59 – col. 6, l. 22

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

“[T]here must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness” . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art. *In re Zletz*, 893 F.2d 319, 321-22 (Fed. Cir. 1989).

ANALYSIS

Appellants argue that the Examiner's rejection is in error because the combination of Wood and Hart fails to teach or suggest “modifying the retrieved user interface according to the accessed data so that the interface

provides user accessible controls for selecting only those options for which the user has permission to access” as recited in independent claims 1 and 15 (App. Br. 8). Appellants also argue that Hart discloses generating a customized user interface, which is different from what is recited in the claims and that Hart teaches away from the claimed invention (App. Br. 8-10). The Examiner finds that Hart’s disclosure of generating a user interface reads upon Appellants’ modifying step, because a new user interface is generated based on that step, and that there is no functional difference between the two (Ans. 14-16). We generally agree with Appellants.

While the Examiner is correct that modifying an interface provides a new interface, that, however, does not create equivalence between modification and creation anew. In other words, every modified interface provides a new interface, but not every new interface is a modified interface. Every new interface could well be created out of whole cloth, without there being a modification of some standard. Thus, Hart’s disclosure of the customized interface (FF 4) does not necessarily teach the modification of an existing interface, as recited in claims 1 and 15. A claim limitation must be read upon the proffered prior art and not the reverse process.

In addition, the Examiner argues that “there must be an initial user interface into which the data is [sic] integrated in order to generate the custom user interface” (Ans. 15), but we can find no explicit support in Hart for such a judgment. It could be equally true that Hart implies a template, into which data are provided to construct the custom interface, without the need for modification of an existing template and/or interface. As such, we find this to be speculation and not a foundation for a *prima facie* case of obviousness.

The Examiner also argues that one of ordinary skill in the art would have “relied on Hart for the teaching of integrating custom data and user interface features into Wood’s existing web page in order to generate a user interface” (Ans. 16). However, as pointed out by Appellants (Reply Br. 4), “integrate” and “modify” are not necessarily the same. As discussed *supra*, integration can be accomplished through a template, for example, that would provide for integration of data but not modification of an interface. As such, we find the Examiner erred in rejecting claims 1 and 15 as being obvious over Wood and Hart. Similarly, by virtue of their dependence, we find the rejection of dependent claims 2, 3, 11, 12, 16, 17, 25, and 26 to also have been made in error.

We note that independent claims 14, 28, 33, and 38 also recite subject matter similar to the modification of the retrieved user interface to provide user accessible controls only for which the user has permission to access, provided in independent claims 1 and 15. With respect to the rejection of independent claims 14, 28, and 33, the Examiner cites Zothner for its teachings of user profiles which contain security and permission information, but we find that Zothner does not cure the deficiencies of Wood and Hart, as argued by Appellants (App. Br. 11-12). Similarly, with respect to independent claim 38, the Examiner cites Adolfsson, but that reference also fails to cure the deficiencies of Wood and Hart (App. Br. 13-14). As such, we find that the rejections of independent claims 14, 28, 33, and 38, and claims dependent thereon, to have been made in error as well.

CONCLUSION

The decision of the Examiner, rejecting claims 1-3, 11, 12, 15-17, 25, and 26 as being obvious over Wood and Hart, rejecting claims 5, 9, 10, 14, 19, 23, 24, 28, 33, and 34 as being obvious over Wood, Hart, and Zothner, and rejecting claims 35, 36, and 38 as being obvious over Wood, Hart, Zothner, and Adolfsson, is reversed.

DECISION

The Examiner's rejection of claims 1-3, 5, 9-12, 14-17, 19, 23-26, 28, 33-36, and 38 before us on appeal is REVERSED.

REVERSED

rvb

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